

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

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In the Matter of )  
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 Petitions for Rulemaking )  
 Filed by Maritel, Inc. and Mobex Network ) RM-10743  
 Services, LLC Requesting Amendment of the )  
 Commission's Rules to Promote the Use of )  
 VHF Public Coast Station Frequencies )

JUL 31 2003

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY


To Thomas J. Sugrue, Chief  
 Wireless Telecommunication Bureau

**COMMENTS OF THE  
 AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.**

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS  
 ASSOCIATION, INC.

By

  
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July 31, 2003

The American Mobile Telecommunications Association, Inc. (“AMTA” or “Association”) by its attorneys respectfully submits the following comments in response to the Federal Communications Commission (“FCC” or “Commission”) Public Notice inviting comment on the Petitions for Rulemaking (individually a “Petition” and, collectively, the “Petitions”) filed by Maritel, Inc. (“Maritel”) and Mobex Network Services, LLC (“Mobex”) (Maritel and Mobex, collectively, the “Petitioners”).<sup>1</sup> Both Petitions request that the FCC modify its rules governing Public Coast frequencies in the VHF band to permit greater flexibility and, thereby, promote the more intensive use of this spectrum.<sup>2</sup> For the reasons described herein, AMTA supports the Petitions and urges the Commission to adopt rules consistent with them.

## **I. INTRODUCTION**

AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association’s members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio (“SMR”) service operators holding site-specific and/or geographic authorizations, as well as commercial licensees in the 217-220 MHz, 220-222 MHz and 150-512 MHz bands. AMTA has participated actively in numerous FCC rule making proceedings relating to the regulations governing operations in these bands and consistently has recommended that the FCC rules promote their more efficient and more competitive use. Thus, the Association and its members have a significant interest in the outcome of this proceeding.

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<sup>1</sup>Request Amendment of the Commission’s Rules to Promote the Use of VHF Public Coast Station Frequencies, *Public Notice*, Report No. 2615 (rel. July 1, 2003).

<sup>2</sup>Maritel describes itself as the largest provider of VHF public coast station (VPC) stations in the United States. Maritel Petition at p. 1. Mobex states that it is the largest operator of AMTS systems. Mobex Petition at p. 1.

## II. DISCUSSION

As described in the Petitions, the spectrum at issue initially was allocated for maritime use exclusively. Public Coast stations were intended primarily to facilitate communications between vessels and positions in the public switched telephone network (“PSTN”) at a time before cellular, satellite and other services provided a variety of sophisticated offerings and ubiquitous, relatively inexpensive access to the telephone network. In recent years the FCC has pro-actively modified many aspects of the VPC and AMTS rules.<sup>3</sup> This spectrum has been made available in areas other than those capable of serving the nation’s waterways, and the FCC has taken effective steps to permit its more flexible use, consistent with its obligation to promote regulatory symmetry among service providers in these bands and competitive Commercial Mobile Radio Service (“CMRS”) providers.<sup>4</sup>

Nonetheless, as noted in the Petitions, the Part 80 rules still reflect certain vestiges of their exclusively maritime heritage. Although they have been modified to permit the provision of a variety of services, including land-based services such as private dispatch, mobile data and other non-interconnected offerings, FCC Rule Section 80.123 still requires systems providing land-based services to have the technical capability of interconnecting with the PSTN, irrespective of whether

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<sup>3</sup>See, e.g., *Third Report and Order and Memorandum Opinion and Order*, PR Docket No. 92-257, 13 FCC Rcd 19853 (1998) (3<sup>rd</sup> R&O); *Fourth Report and Order and Third Notice of Proposed Rulemaking*, PR Docket No. 92-257, 15 FCC Rcd 22585 (2000) (4<sup>th</sup> R&O)

<sup>4</sup>Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, *Notice of Proposed Rulemaking*, 8 FCC Rcd 7988 (1993), *First Report and Order*, 9 FCC Rcd 1056 (1994), *Second Report and Order*, 9 FCC Rcd 1411 (1994), *Third Report and Order*, 12 FCC Rcd 10943 (1997); *Memorandum Opinion and Order on Reconsideration*, 13 FCC Rcd 14569 (1998); *Fifth Report and Order*, 13 FCC Rcd 24615 (1998) (“CMRS Proceeding”)

the service being provided requires interconnection or whether the users desire that capability.<sup>5</sup> The Petitioners urge the FCC to eliminate this now unnecessary, and therefore inefficient, regulatory requirement for systems providing non-interconnected, land-based services by amending FCC Rule Section 80.123 (and, if necessary, FCC Rule Section 80.475(c)).

Maritel also notes that certain other Part 80 rules inhibit the full competitive potential of providers in these bands by imposing other maritime-related obligations on operators who provide no marine public correspondence services, and even on those that cannot provide such services because their authorizations cover entirely inland areas.<sup>6</sup> It recommends that the FCC adopt a more flexible regulatory framework that mirrors those applicable to services in which the regulatory status of licensees is not pre-ordained, but is defined by virtue of the service offerings they elect to provide.<sup>7</sup>

AMTA agrees that the Part 80 rules should be revised as recommended in the Petitions. The Commission already has taken important steps to promote the more intensive use of the VHF Public Coast bands, both in terms of the geographic areas in which the spectrum can be used and the types of offerings permitted, while preserving its maritime features when appropriate.<sup>8</sup> The modifications suggested in the Petitions will further the FCC's pro-competitive spectrum policies, policies that are

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<sup>5</sup>See *In the Matter of Warren C. Havens Petition for Declaratory Ruling or Waiver Regarding Section 80.124 and Other Commission Rules as Applied to Automated Maritime Telecommunications Service Systems*, *Order*, DA 03-115 (rel. April 18, 2003).

<sup>6</sup>Maritel Petition at pp. 5-6.

<sup>7</sup>*Id.* at pp. 6-7.

<sup>8</sup>See n. 3 above.

dictated by Sections 3(n) and 332 of the Communications Act<sup>9</sup> and that form the cornerstone of the recent findings of the FCC's Spectrum Policy Task Force<sup>10</sup>

### **III. CONCLUSION**

For the reasons described herein, AMTA urges the Commission to proceed expeditiously to amend its Part 80 rules consistent with the recommendations detailed in the Petitions

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<sup>9</sup>47 U.S.C. §§ 3(n), 332

<sup>10</sup>*See* ET Docket No. 02-135, *November 2002 Report* (rel. Nov. 15, 2002)

## **CERTIFICATE OF SERVICE**

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this July 31, 2003, caused to be mailed, first-class, postage prepaid, a copy of the foregoing Comments to the following

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